

BOOK REVIEW

SHAREHOLDERS' RIGHTS

Robin Hollington QC, 5th ed, (Sweet & Maxwell, London 2007)
Hardback ISBN 9781847030221 £155

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Now in its fifth edition, this work by a leading practitioner in the area has become very well established. Despite its name, it covers a wide area, setting possible shareholder claims in the general framework of company law, separate legal personality, the statutory contract, majority rule and a quite detailed look at directors' duties.

Turning to the possible causes of action, the book understandably concentrates on the Unfair Prejudice Remedy (section 459 of the Companies Act 1985, now section 994 of the Companies Act 2006) with separate chapters on the principles, the remedies and practice and procedure. These take up about half of the book's 400 or so pages. The 2006 Act makes no substantive change to the law in this area and one might have thought that with the House of Lord's decision in *O'Neill v Phillips* [1999] 1 WLR 1092, (a case in which the author was counsel for the petitioner), further commentary on this remedy might not be necessary. However, it remains a much litigated provision as can be seen from the number of recent cases the author cites, and for this alone, a new edition would probably be justified.

More significant changes are found in other parts of the book where the 2006 Act may have changed the substantive law, particularly regarding directors' duties and derivative actions. I say 'may' because, as the author comments, it is not clear how much the codification of directors' general duties and the replacement of the common law derivative action (usually for 'fraud on the minority') by a statutory action will change the courts' attitudes. In chapters 4 and 6 on these two areas, the author lays out the pre- and post-2006 Act positions which will be particularly useful to practitioners struggling with actions based on facts on either side of the Act's implementation dates. If I had one criticism of this, it might be that a few more Commonwealth decisions from jurisdictions where company law was reformed some years ago, might have been used to illustrate how the courts could now interpret the

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UK codification or statutory remedy. Still, the author might be right to believe that the courts will still heavily rely on the pre-2006 Act UK cases.

Despite the concentration on the Unfair Prejudice Remedy, and elsewhere on the 2006 Act developments, one of the most fascinating parts of the book is chapter 11 on the Personal Rights of Shareholders. Here the author tackles the minefield created by the concept of 'reflected loss' as discussed in cases like *Johnson v Gore Wood* [2002] 2 AC 1 and [2003] EWCA Civ 1728. I shall certainly be looking at this chapter again before I have to give lectures to my students on this subject. Indeed, although this is a book written primarily for practitioners by a leading practitioner, it is tackling subjects of enormous academic interest and the author has tried to extract the general principles that are being applied in this complex area, highlighting them in chapter 2.

I am sure that this latest edition of *Shareholders' Rights* will not be the last as the practical consequences of the 2006 Act begin to be worked out, no doubt with the author directly involved in the cases. In the meantime, I would also like to compliment the publishers on the pleasing quality of the print and paper. As the whole area of Company Law has expanded, those of us involved in it have become used to ever smaller print and almost transparent paper. This, at least, is one honourable exception!